

P R I S M

Law Department JUN 30 2000

June 30, 2000

BY HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: **SBC's Request for Interpretation, Modification, or
Waiver -- CC Docket No. 98-141**

Dear Ms. Salas:

Prism Communication Services, Inc. ("Prism"), hereby files this *ex parte* letter in response to the June 2, 2000 letter submitted by SBC Communications, Inc. ("SBC") in the above-referenced proceeding.¹ SBC has sought the Commission's interpretation regarding its proposed ownership arrangement for combination ADSL line cards ("ADLU" cards) and optical concentration devices ("OCDs") to enable it to proceed with its "Project Pronto."² While Prism applauds any efforts to make the local network more efficient for advanced services, Prism is greatly concerned that a network architecture that excludes the deployment of certain technologies will restrict a consumer's ability to obtain choices of both services and providers in both traditional and advanced communications markets. In particular, as described below, SBC's proposal provides no means for CLECs to provide integrated voice and data and limits services to those supported by SBC's vendor of choice.

As the Commission is aware, a number of CLECs proposed conditions in response to Common Carrier Bureau Staff requests for information regarding what conditions should accompany any grant of SBC's request in this proceeding.³ Prism

¹ Letter from Paul K. Mancini, Vice President & Assistant General Counsel, SBC, to Carol E. Matthey, Deputy Chief, Common Carrier Bureau ("CCB"), Federal Communications Commission ("FCC" or "Commission") (June 2, 2000) ("June 2nd Letter").

² In Re Applications of Ameritech Corp. and SBC Communications, Inc. Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines, *Memorandum Opinion and Order*, CC Docket No. 98-141, (rel. Oct 8, 1999) Appendix C ("Merger Conditions").

³ See *id.* at n.1. Prism generally supports the comments and concerns of these CLECs and in particular, the comments of the Competitive Telecommunications Association ("CompTel") of which

fully supports the conditions proposed by CompTel and urges the Commission to implement these conditions in order to bring Project Pronto into compliance with the Telecommunications Act of 1996 and the Merger Conditions. In its response to these proposed conditions, SBC continues to claim that no waiver or modification of its merger conditions is necessary because the plug/cards and OCDs are advanced services equipment.⁴ As Prism and others have previously stated in this proceeding, SBC's advanced services affiliate must own the equipment for which SBC seeks an interpretation, modification or waiver because the equipment patently meets the definition of "advanced services equipment."⁵ While the Commission must answer this narrow question of ownership, Prism focuses in this letter on SBC's assertions that the proposed conditions are unnecessary and that its proposal furthers the public interest.

To begin with, an inquiry into access to SBC's Next Generation Digital Loop Carrier ("NGDLC") remote terminals ("RTs") raises significant concerns regarding Prism's and others' efforts to deploy integrated advanced telecommunications services. Most crucial to Prism as a facilities-based provider of both voice and data services is its ability to offer an integrated voice and data offering --an offering not contemplated by SBC's proposed architecture. Rather, SBC assumes that voice will belong to SBC and only data will be offered via line-sharing.⁶ In order to compete on parity with SBC, it is absolutely critical for integrated communications providers ("ICPs") like Prism to have the ability to offer an integrated voice and data service.⁷ As such, CLECs have proposed that the technology deployed by SBC allow for the provisioning of unbundled loops from the RT on which a CLEC can offer voice and data services using the same line.⁸ In its June 2nd Letter, SBC makes only brief reference to this CLEC proposed condition by stating that it is "developing an integrated voice and data service" without any commitments or a timeframe for deployment -- this despite SBC's acknowledgement that such an offering is technically feasible.⁹

As currently proposed, SBC's DLE infrastructure would require an ICP to lease a voice grade loop from the central office and a separate loop from the RT for data (i.e., ICPs would be required to lease two loops to one customer). In particular, ICPs would

Prism is a member. See Letter from Jonathan D. Lee, CompTel, to Carol Matthey, FCC (May 18, 2000) ("CompTel Letter").

⁴ June 2nd Letter at 2-4.

⁵ Prism Comments in CC Docket No. 98-141 at 9 (March 3, 2000); Letter from Jonathan D. Lee, CompTel, to Magalie Roman Salas, FCC (April 4, 2000). Prism does note that to conclude, as SBC does, that plug/cards are not advanced services equipment simply because they are used to provide both POTS and ADSL is absurd. (See June 2nd Letter at 2). The equipment is defined by its most advanced feature and the channel card clearly defines the boundaries of a given channels capability and dictates what services can be delivered. Under SBC's reasoning, any equipment could be relived from the burdens of advanced services equipment simply through the addition of a clock/radio, or some other utilitarian functionality.

⁶ See e.g., Letter from Paul K. Mancini, SBC, to Lawrence Strickling, Chief, CCB, FCC at Appendix DLE-DSL at 6.3.

⁷ Prism uses an integrated line card by Nortel Networks that, like SBC's ADLU card, does not require the use of a DSLAM or POTS splitter.

⁸ CompTel Letter at 4, Conditions 1)(a)(b).

⁹ See Letter from James K. Smith, Executive Director, Federal Regulatory, SBC to Magalie Roman Salas, FCC, May 11, 2000 at 1 and Diagram 2.

not have access to a dedicated voice path from the CO over OC-3 fiber, through the RT and subloop to the customer. Furthermore, even assuming SBC offered a permanent virtual circuit ("PVC") with adequate quality of service ("QoS") to provide Voice over DSL ("VoDSL"), such an offering would obviously be insufficient without the interface necessary to provide lifeline POTS (i.e. E911 routing/identification capability) and "always on" access.

In view of SBC's statement that its proposed DLE infrastructure of 20,000 RTs in 13 states will enable it to reach an additional 40% of their customer base, the effect on an ICP's potential to compete within SBC's footprint as a carrier of bundled voice and data services would be dire without the capability to reach those additional customers served behind the DLE architecture. Without modification of SBC's proposal to include an integrated voice/data offering, Prism and others will be precluded from offering the same services offered by SBC within the DLE infrastructure. Should SBC's proposal be implemented without this critical modification, ICPs will be denied their rights to access loop network elements as set forth by the Commission in its "UNE Remand Order."¹⁰ Moreover, Prism and other ICPs will be denied the benefit of collocation for access to those loop elements at the RT under 251(c)(6) of the Telecommunications Act of 1996. Given that there are no technical impediments to providing ICPs an integrated voice/data offering, Prism submits that SBC should not be permitted to offer such an integrated service via its proposed DLE infrastructure until SBC makes this offering available to ICPs.

Prism is also quite concerned because SBC's proposal has the effect of limiting the types of services or products that competitive carriers will be able to offer their customers –thwarting innovation in the advanced services market. In particular, SBC's proposal contemplates use of an Unspecified Bit Rate ("UBR") PVC in conjunction with the use of the OC-3c transport. In essence, SBC will split the high speed data onto a full rate ADSL card and aggregate along DS-3 or OC-3 rates. The aggregation levels are such that competitors cannot differentiate services behind a DLC based on bandwidth or network delay. In addition, there are no service offerings for symmetrical bandwidth solutions or other multiple services (e.g., SDSL, G.Lite etc.) from the DLC to the subscriber's premise, nor is there any capability defined or offered to guarantee that bandwidth through the network. In such a speed restricted and customer base defined environment, "bandwidth on demand" will be a thing of the past.

Notably, many advanced services depend on a provider's ability to offer customers discriminatory services, scaled to the customer's individual service requirements. For example, VoDSL, Video on Demand, Virtual Private Networks and similar services all require some measure of differentiating traffic according to appropriate service guarantees. However, by SBC's own admission, "the total bandwidth between NGDLC Remote Terminal and the OCD is 155 Mbps (OC3c rate). With the . . . UBR Broadband Service offering, all users of the system share this bandwidth in a

¹⁰ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, 15 FCC Rcd 3696, ¶ 167 (1999) ("UNE Remand Order").

nondiscriminatory manner.”¹¹ In this environment, not only will a restricted number of customers have DSL, the service will be offered without any service guarantees.¹² In addition, SBC contends that NGDLC suppliers do not yet manufacture plug/cards to support multiple services. SBC explicitly fails to mention products from companies such as Nortel Networks (*e.g.* Promatory, UE900) that deliver on such multi-service capabilities today and can fit into constrained DLC environments.

In short, the public interest is not served by SBC’s DLE infrastructure as currently proposed. To the contrary, once fully implemented, Project Pronto will enable SBC to dictate the public interest in the form of the future technology deployed and the extent to which it can be used. The public will be therefore be denied access to many advanced services and vendors, since carriers will be unable to differentiate their services. Furthermore, the inability to offer an integrated voice/data offering will place ICPs like Prism at a competitive disadvantage and act as a barrier to entry.

Accordingly, Prism submits that any grant of SBC’s request for a waiver of the merger conditions be accompanied by conditions that promote the public’s access to a multitude of vendors and services and that address a carrier’s ability to offer integrated voice and data services. Prism restates its support of these and the additional conditions set forth in the CompTel Letter.

Sincerely,

A handwritten signature in cursive script, reading "Renée Roland Crittendon".

Renée Roland Crittendon
Deputy Chief Counsel - Telecommunications

¹¹ June 2nd Letter at 12 n.12.

¹² SBC claims that use of a Constant Bit Rate (“CBR”) would limit the number of CLECs and subscribers served by the DLC. *Id.* Notably, however, in the UBR context, for each 2016 line DLC, only 672 will carry DSL. *Id.* at “Conceptual Model” Diagram. Further, these 672 customers, if treated indiscriminately as SBC suggests, could receive at most 180 Kbps of usable bandwidth per user (not 1.5 Mbps) once ATM Cell Tax is accounted for. Moreover, unlike CBR offerings, end users would receive this offering without service guarantees since UBR is merely a best effort delivery mechanism.

CERTIFICATE OF SERVICE

I, Evelyn A. Opany, hereby certify that a correct copy of the foregoing document was served via First Class and Courier to the following individuals, this 30th day of June 2000.

Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W.
Room 8-B201
Washington, DC 20554

Honorable Susan Ness
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-B115
Washington, DC 20554

Honorable Gloria Tristiani
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-C302
Washington, DC 20554

Honorable Michael K. Powell
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-A204A
Washington, DC 20554

Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
445 12th Street, S.W.
Room 8-A302
Washington, DC 20554

ITS, Inc.
445 12th Street, S.W.
CY-B402
Washington, DC 20554

Jordan Goldstein
Legal Advisor to Commissioner Ness
Federal Communications Commission
445 12th Street, S.W.
Room 8-B115
Washington, DC 20554

Dorothy Attwood
Legal Advisor to Chairman Kennard
Federal Communications Commission
445 12th Street, S.W.
Room 8-B201
Washington, DC 20554

Kyle D. Dixon
Legal Advisor to Commissioner Powell
Federal Communications Commission
445 12th Street, S.W.
Room 8-A204A
Washington, DC 20554

Sarah Whitsell
Legal Advisor to Commissioner Tristani
Federal Communications Commission
445 12th Street, S.W.
Room 8-C302
Washington, DC 20554

Rebecca Beynon
Legal Advisor to Commissioner Furchtgott-Roth
Federal Communications Commission
445 12th Street, S.W.
Room 8-A302
Washington, DC 20554

Linda Kinney
Assistant Bureau Chief-
Special Advisor for Advanced Services
Federal Communications Commission
445 12th Street, S.W.
Room 5-C041
Washington, DC 20554

Lawrence E. Strickling
Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 5-C457
Washington, DC 20554

Michelle Carey
Chief
Policy Division
Federal Communications Commission
445 12th Street, S.W.
Room 5-C122
Washington, DC 20554

Jared Carlson
Legal Counsel to Bureau Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 5-C434
Washington, D.C. 20554

Bob Atkinson
Deputy Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 356
Washington, D.C. 20554

Jake E. Jennings
Deputy Chief, Common Carrier Bureau
Policy Division
Federal Communications Commission
Common Carrier Bureau
445 12th Street, S.W.
Room 5-C260
Washington, DC 20554

Janice M. Myles
Policy Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., TW-A352
Room 5-C327
Washington, DC 20554

Staci Pies
Common Carrier Bureau, Policy Division
Federal Communications Commission
445 12th Street, S.W.
Room 5-C360
Washington, DC 20554

Anthony Dale
Accounting Safeguards Division
Federal Communications Commission
Common Carrier Bureau
445 12th Street, S.W.
Room 6-C461
Washington, DC 20554

Paul K. Mancini
Vice President & Assistant General Counsel
SBC Communications, Inc.
175 E. Houston Street, 12th Floor
San Antonio, TX 78205

Debby Byrd
Accounting Safeguards Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 6-C316
Washington, DC 20554

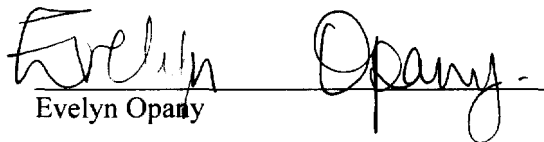
Carol Matthey
Deputy Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 356
Washington, DC 20554

Doug Sicker
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, S.W.
Room 7A-325
Washington, DC 20554

Don Stockdale
Associate Chief
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 5C-354
Washington, DC 20554

Dave Farber
Chief Technologist
Federal Communications Commission
445 12th Street, S.W.
Room 7C-240
Washington, DC 20554

Date: June 30, 2000


Evelyn Opany